

REMARKS

Claims 1, 6-11, 14-16, 18, 20, and 25-34 are pending in the application. The Advisory Action stated that the claim amendments presented in the response filed on September 16, 2008 will be entered. No further amendments have been made by the present response and no new matter has been added.

35 U.S.C. §103(a) (Obviousness)

At page 3 of the final Office Action, the Examiner stated that “[l]imiting the scope of the claims to CHO cells or showing evidence the unexpected result apply to any cell would obviate the rejection.” Consistent with the Examiner’s remarks, applicants responded to the final Office Action by amending independent claims 1 and 18 to require that the cell recited in the claims be a Chinese Hamster Ovary (CHO) cell. It was applicants’ understanding that those amendments would obviate the rejection and place the application in condition for allowance. However, the present Advisory Action stated that the response to the final Office Action did not place the application in condition for allowance “because the specification on page 18 Table 1 shows that only one CHO cell (i.e. the cell with BcL-XL #21) shows the unexpected result.”

Applicants appreciate the helpful telephone interview between the Examiner and the undersigned on October 21, 2008. As clarified by the undersigned during the interview, the data in the application shows that it is not only a single CHO cell isolate that has the unexpected property of exhibiting increased protein production on a per cell basis (i.e., not simply through increased cell densities via inhibition of apoptosis). Instead, Table I on page 18 of the specification shows that per cell specific productivity was enhanced for all three CHO cell isolates depicted, as compared to the 100AB-37 parental cell line (14, 19, and 12 pg/cell/day for the bcl-xl transfectants as compared to 9 pg/cell/day for the parental cell line). In view of the data presented in the application, the skilled artisan would have understood that bcl-xl would have as a property the ability to increase the amount of protein produced by individual CHO cells and that this unexpected property of CHO cells expressing bcl-xl would not be limited to only a single CHO cell isolate.

In view of the foregoing remarks, applicants respectfully request that the Examiner withdraw the rejection of claims 1, 6-11, 14-16, 18, 20, and 25-34.

CONCLUSIONS

Applicants respectfully submit that all grounds for rejection have been overcome and that all claims are now in condition for allowance.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 13751-036US1.

Respectfully submitted,

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